IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT APPEAL No: 1852 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 27/02/2004 in WP No: 6572 OF 1994 on the file of the High Court.)

Between:

Matcha Simhadri, S/o. Applanaidu,
R/o. Mugada Village, Badangi Mandal, Vizianagaram District.

..... APPELLANT

AND

1 Sri Visakha Grameena Bank, Rep. by its Chairman and Disciplinary Authority, Srikakulam.
2 Sri Visakha Grameena Bank, Rep. by its Board of Directors and Appellate Authority, Srikakulam.

.....RESPONDENTS

Counsel for the Appellant: MR.A.SRINIVASA SARMA

Counsel for the Respondents: MR.K.SRINIVASA MURTHY

The Court made the following:

ORAL ORDER (PER GB,J.)

The Writ Appeal is filed against the order, dated 27.02.2004 passed by the learned single Judge in W.P.No.6572 of 1994.

2. Appellant is the petitioner before the learned single Judge. He was working as Branch Manager, Visakha Grameena Bank, Srikakulam. Certain charges were framed against him and departmental enquiry was conducted and ultimately he was dismissed from service by two orders of dismissal, dated 6.5.1993. He was also imposed the punishment of stoppage of one increment which shall have the effect of postponement of future increments by separate order of date. However, the petitioner challenged all these three punishments under a common Writ Petition.

3. Learned single Judge after considering the matter dismissed the Writ Petition. Against the said order the present Writ Appeal has been filed.

4. Learned counsel for the appellant submits that the order is not sustainable in law inasmuch as the learned single Judge did not consider the contentions raised by the appellant in a proper perspective. He submits that the enquiry officer's report was not furnished prior to the dismissal order and it was only furnished along with the dismissal order, which is violative of principles of natural justice. He further submits that when the enquiry officer framed the charges and when the disciplinary authority was discarding with the findings of the enquiry officer, he is entitled for prior notice, which has not been given to him. Therefore, it also constitutes violation of principles of natural justice. Lastly he submits that when the appellant filed an appeal to the appellate authority raising number of substantial grounds, the appellate authority has dismissed the same without recording any reasons. The appellate authority only stated that it is decided to uphold the action taken by the disciplinary authority

without there being any observations on the grounds raised by the appellant. Thus, the order of the learned single Judge is illegal and liable to be set aside.

5. On the other hand, the learned counsel for the Management submits that the appellant did not raise these grounds before the learned single Judge and therefore, there was no occasion for the learned single Judge to deal with the matter.

6. We have heard the learned counsel for the parties.

7. In this case we find that the report of the enquiry officer was not furnished to the employee so as to enable him to file his objections, but it is furnished along with the order of punishment. Secondly, when the disciplinary authority discarded the findings of the enquiry officer no opportunity was given to him. Thirdly, the contention of the learned counsel for the appellant with regard to the order of the appellate authority is also appealing to this Court inasmuch as the appellate authority did not discuss any of the grounds raised by the appellant. It is incumbent being an appellate authority to consider all the points raised in the appeal and pass appropriate orders.

8. Under those circumstances, we find that the matter requires reconsideration in the hands of the appellate authority in order to obviate any inconvenience to the employee with regard to the attack on the findings of the enquiry officer. We leave it open to the appellant to file his objections to the findings of the enquiry officer before the appellate authority. The appellate authority shall consider the grounds raised in the appeal and also the further objections now being filed with regard to the findings of the enquiry officer and pass appropriate orders within a period of two months from the date of receipt of a copy of this order. If the appellant seeks any personal hearing, it is open for the appellate authority to grant such personal hearing also.

9. While considering the matter, the appellate authority shall pass the order uninfluenced by any findings recorded by the learned single Judge or observations made by him in the W.P.No.6572 of 1994.

10. With the above observation, the Writ Appeal is disposed of accordingly.

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(G. BIKSHAPATHY, J.)

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(P.S. NARAYANA, J.)

Date: 02-12-2004

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To

1 The Chairman and Disciplinary Authority, Sri Visakha Grameena Bank, Srikakulam.
2 The Board of Directors and Appellate Authority, Sri Visakha Grameena Bank, Srikakulam.

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